

Notice of Allowability

Application No.

10/662,000

Examiner

Melissa Ryckman

Applicant(s)

CHANDUSZKO, ANDRZEJ J.

Art Unit

3734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendments filed 5/24/07.
2. ☒ The allowed claim(s) is/are 1-42.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with David Cavanaugh and John Hobgood on 8/17/07.

1. claim 1, line 7: add "a" between "axis," and "split".
2. claim 1, line 8: delete "its" and replace with "a".
3. claim 1, line 8: delete "to" and replace with "of said cylindrical member".
4. claim 1, line 8: delete "form" and replace with "forming".
5. claim 1, line 8: add "having a surface area adapted to substantially abut the septal tissue" between "oval" and "wherein".
6. claim 1, line 8: add "flexible" between "the" and "center".
7. claim 1, line 10: replace "member" with "members".
8. claim 1, line 10: add "flexible" between "the" and "center".
9. claim 20, line 6: add "a" between "axis," and "split".
10. claim 20, line 7: delete "its" and replace with "a".
11. claim 20, line 7: delete "to" and replace with "of said cylindrical member".
12. claim 20, line 7: delete "form" and replace with "forming".

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13. claim 20, line 7: add "having a surface area adapted to substantially abut the septal tissue" between "oval" and "wherein".
14. claim 20, line 10: add "flexible" between "the" and "center".
15. claim 20, line 12: add "flexible" between "the" and "center".
16. claim 42, line 7: add "a" between "axis," and "split".
17. claim 42, line 8: delete "its" and replace with "a".
18. claim 42, line 8: delete "to" and replace with "of said cylindrical member".
19. claim 42, line 8: delete "form" and replace with "forming".
20. claim 42, line 8: add "having a surface area adapted to substantially abut the septal tissue" between "oval" and "wherein".
21. claim 42, line 10: add "flexible" between "the" and "center".
22. claim 42, line 12: add "flexible" between "the" and "center".

The following is an examiner's statement of reasons for allowance:

"the elongate oval having a surface area adapted to substantially abut the septal tissue" does not read on the bypass stent as seen in 6,616,675 and the other prior art of record, because the stent does not have an exposed elongate oval, only the border of the oval is exposed not the surface. Surface area would include the face of the oval not only the border. The prior art of record does not include a cylindrical member with a split along the central portion of a length of a cylindrical member.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa Ryckman whose telephone number is (571)-272-9969. The examiner can normally be reached on Monday thru Friday 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571)-272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MKR


(JACKIE) TAN-UYEN HO
SUPERVISORY PATENT EXAMINER